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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

Conservatorship of the Person of PETER C.

SAN DIEGO COUNTY HEALTH AND  
HUMAN SERVICES AGENCY,

Petitioner and Respondent,

v.

PETER C.,

Objector and Appellant.

D042093

(Super. Ct. No. MH95522)

APPEAL from a judgment of the Superior Court of San Diego County, Vincent P.  
DiFiglia, Judge. Affirmed.

Peter C. appeals a judgment establishing a Lanterman-Petris-Short Act (Act)  
conservatorship for him after the jury found him unable, as a result of a mental disorder,

to provide for his basic personal needs for food, clothing or shelter.<sup>1</sup> He contends substantial evidence does not support the jury's finding.

### FACTUAL AND PROCEDURAL BACKGROUND

On February 11, 2003, the public conservator filed a petition to establish a conservatorship for Peter pursuant to Welfare and Institutions Code section 5350<sup>2</sup> on the grounds that he was gravely disabled.

On April 14 and 15, 2003, a jury trial was held on the question of whether Peter was gravely disabled within the meaning of the Act. There were two witnesses: Dr. Brian Miller, a psychiatrist, testified on behalf of the petitioner, and Peter testified in his own defense. Miller testified that in November 2001 when Peter was a hospital inpatient, he refused to eat, was unresponsive, and essentially comatose. On January 30, 2003, Miller began treating Peter when he was admitted as a hospital inpatient. Miller treated him for five weeks. Apparently during this period of hospitalization, Peter again refused to eat. Peter's medical records showed he had previously been diagnosed with a bipolar disorder and suffered from delusional thinking, paranoia, and grandiose ideas. Peter had been hospitalized about 60 times for psychiatric reasons. Miller diagnosed his condition as a schizoaffective disorder of a bipolar type. During Peter's periods of depression, he became withdrawn and stopped eating. Prior to Peter's hospitalization on January 30, he

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<sup>1</sup> We have abbreviated Peter C.'s name to protect his privacy. (Welf. & Inst. Code, § 5325.1, subd. (b); *Conservatorship of Susan T.* (1994) 8 Cal.4th 1005, 1008, fn. 1.) For convenience, we hereafter refer to him as Peter.

<sup>2</sup> All statutory references are to the Welfare and Institutions Code.

had been released from a facility for only about one week and had no medications in his possession. He had been living in bushes outside that facility, had thrown away clothes given him, and had urinated and defecated in the filthy clothes he wore. He did not have any plans for food or a place to stay. Although Miller prescribed medications for Peter while he was hospitalized, Peter did not believe he needed them. Miller believed that Peter would not take his medications were he living on his own and would not voluntarily seek treatment. Miller believed Peter did not have any insight into or understanding of his mental illness. Peter told him that he liked to wear three or four pair of pants at a time because it protected him from muffler exhaust. When asked where he was going to live, Peter usually would respond: "I've got a crate of tomatoes. I'm going to take them downtown and help them out with their meat worms." Although he receives monthly income of about \$600 to \$700, Peter is unable to use it to obtain food and clothing. He has been unable to articulate a coherent plan to provide himself with his basic needs, including shelter, food and clothing, without relying on others. Although Peter would be able to buy food at a restaurant if he had the money, Miller did not believe Peter could plan for his next meal or budget his money to be able to have food on an ongoing, steady basis. Similarly, Peter would not be able to maintain a hotel room or apartment because of his inability to plan and budget his money. Miller testified it was his opinion that because of Peter's schizoaffective disorder of a bipolar type, he is unable to provide for his own food, clothing or shelter. On cross-examination, Miller admitted that another physician apparently had concluded Peter could provide for his own food, clothing and shelter when he was released in January 2003 following a prior conservatorship.

Peter testified that he was not given any medications when he was released from his last facility in January 2003. He discarded the clothing given him because it was the wrong size and unappealing to him. If he were released from his current facility, he planned to live at an Oceanside motel near grocery stores and clothing stores. He did not believe he needed assistance from a case manager. He receives monthly income from the government, which at one time was \$771 per month but has since been reduced. On cross-examination, he admitted he was wearing two pairs of pants, a shirt, and two jackets to protect himself from car exhaust and to prevent them from being stolen. He explained that he stopped taking his medication in the past because he felt better without it.

The jury returned a unanimous verdict that Peter has a mental disorder and, as a result of that mental disorder, is unable to provide for his basic personal needs for food, clothing or shelter. Therefore, the jury concluded Peter is gravely disabled. On April 15 the trial court, based on the jury's findings, entered a judgment establishing a section 5350 conservatorship for Peter that would automatically terminate in one year.

Peter timely filed a notice of appeal.<sup>3</sup>

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<sup>3</sup> An appeal from a judgment establishing a section 5350 conservatorship must be filed within 60 days of entry of the judgment. (Cal. Rules of Court, rules 39.4(a), 30.1(a).)

## DISCUSSION

### I

#### *Act Conservatorships Generally*

"The [Act] governs the involuntary treatment of the mentally ill in California. Enacted by the Legislature in 1967, the [A]ct includes among its goals ending the inappropriate and indefinite commitment of the mentally ill, providing prompt evaluation and treatment of persons with serious mental disorders, guaranteeing and protecting public safety, safeguarding the rights of the involuntarily committed through judicial review, and providing individualized treatment, supervision and placement services for the gravely disabled by means of a conservatorship program. (§ 5001.)" (*Conservatorship of Susan T., supra*, 8 Cal.4th at pp. 1008-1009.)

The Act provides for the establishment of a conservatorship for up to one year for a person "who is gravely disabled as a result of mental disorder" and is unable or unwilling to accept voluntary treatment. (§ 5350; *Conservatorship of Susan T., supra*, 8 Cal.4th at p. 1009.) Section 5008, subdivision (h)(1)(A) defines "gravely disabled" as: "A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter." A petitioner for imposition of a conservatorship "must prove the proposed conservatee's grave disability beyond a reasonable doubt and the verdict must be issued by a unanimous jury. [Citation.]" (*Conservatorship of Susan T., supra*, at p. 1009.)

## II

### *Substantial Evidence to Support Finding of Grave Disability*

Peter contends substantial evidence does not support the jury's finding that he is gravely disabled within the meaning of the Act.

## A

In reviewing an appeal challenging the sufficiency of the evidence to support a finding that a person is gravely disabled under the Act, we apply the substantial evidence standard of review. (*Conservatorship of Walker* (1989) 206 Cal.App.3d 1572, 1577.) Accordingly, we "review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence--that is, evidence which is reasonable, credible, and of solid value--such that a reasonable trier of fact could find the [respondent is gravely disabled] beyond a reasonable doubt." (*People v. Johnson* (1980) 26 Cal.3d 557, 578.) We resolve all conflicts and make all reasonable inferences from the evidence to support the judgment. (*Jessup Farms v. Baldwin* (1983) 33 Cal.3d 639, 660.) We do not evaluate the credibility of witnesses or reweigh the evidence, but defer to the jury's determinations of those issues. (*Lenk v. Total-Western, Inc.* (2001) 89 Cal.App.4th 959, 968; *Howard v. Owens Corning* (1999) 72 Cal.App.4th 621, 631.) The testimony of a single witness may provide substantial evidence. (*In re Marriage of Mix* (1975) 14 Cal.3d 604, 614.)

## B

Peter does not dispute that he suffers from a mental disorder. Rather, he argues the evidence is insufficient to show beyond a reasonable doubt that because of his mental disorder, he is unable to provide for his basic personal needs for food, clothing or shelter.

We conclude substantial evidence supports the jury's unanimous finding that Peter is gravely disabled under the Act. Miller testified regarding Peter's mental disorder. Peter suffers from schizoaffective disorder of a bipolar type, delusional thinking, paranoid thoughts, and grandiose ideas. He has been hospitalized about 60 times in the past. While hospitalized, he has twice stopped eating. When he has been released, he has not taken his medications. Miller believes Peter would not take his medications if he were released and living on his own. Peter is unable to plan his future meals or budget his money to have food on a regular basis. He has been unable to articulate a coherent plan to provide himself with his basic needs, including shelter, food and clothing, without relying on others. Prior to his instant hospitalization, he was found living in bushes near the facility from which he was last released. He would not be able to maintain a hotel room or apartment because of his inability to plan and budget his money. He wears multiple layers of filthy clothes. Miller testified it was his opinion that because of Peter's schizoaffective disorder of a bipolar type, Peter is unable to provide for his own food, clothing or shelter.

Although Peter receives about \$600 to \$700 in monthly income, that income is insufficient to prove that he is able to provide for his own food, clothing or shelter. Based on Miller's testimony, the jury could reasonably conclude Peter is unable to

adequately manage that money and plan for his ongoing needs for food, clothing and shelter. Similarly, although Peter asserts he has not been violent or a threat to others in the past, that factor is not an element of grave disability under section 5008, subdivision (h)(1)(A)'s definition and therefore its absence does not disprove the sufficiency of the evidence to support the jury's finding.

Accordingly, substantial evidence supports the jury's finding that Peter is gravely disabled within the meaning of the Act. The jury could reasonably conclude beyond a reasonable doubt that because of Peter's mental disorder, he is unable to provide for his basic personal needs for food, clothing or shelter.

#### DISPOSITION

The judgment is affirmed.

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McDONALD, J.

WE CONCUR:

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NARES, Acting P. J.

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McINTYRE, J.